

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,)
Plaintiff,)
)
v.) CRIMINAL NO. 04-10160-WGY
)
GEORGE MONTILLA)
also known as JOSE,)
Defendant.)

UNITED STATES' MOTION FOR FINAL ORDER OF FORFEITURE

The United States, by and through its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, hereby moves that this Court issue a Final Order of Forfeiture in the above-captioned case pursuant to 21 U.S.C. §853. A proposed Preliminary Order is submitted herewith. In support thereof, the United States sets forth the following:

1. On or about September 23, 2004, a federal grand jury sitting in the District of Massachusetts returned a one-count Superseding Indictment charging defendant George Montilla, also known as Jose, (the "Defendant"), with Conspiracy to Distribute, and to Possess with Intent to Distribute Cocaine, in violation of 21 U.S.C. §846 (Count One).

2. The Superseding Indictment included a forfeiture allegation seeking the forfeiture, as a result of committing the offense alleged in Count One of the Superseding Indictment, of any and all property constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the offense, and

any and all property used, intended to be used, in any manner or part, to commit, or to facilitate the commission of, the offense, pursuant to 21 U.S.C. §853. Such property includes, but is not limited to, \$7,150 in United States currency seized from the Defendant on March 12, 2004, in that such sum represents drug proceeds ("Defendant Property").

3. The forfeiture allegation also provided that if the above-mentioned property, as a result of any act or omission of the Defendant, (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third party; (c) has been placed beyond the jurisdiction of the Court; (d) has been substantially diminished in value; or (e) has been commingled with other property which cannot be subdivided without difficulty, it was the intention of the United States, pursuant to Title 21 U.S.C. §853(p), to seek forfeiture of any other property of the Defendant up to the value of the property above.

4. On or about June 1, 2005, a Change of Plea hearing was held whereby the Defendant pled guilty to Count One of the Superseding Indictment.

5. On or about June 13, 2005, the government filed a Motion for Preliminary Order of Forfeiture and proposed Preliminary Order of Forfeiture seeking forfeiture of property including, but not limited, to the Defendant Property.

6. On or about June 16, 2005, this Court issued a

Preliminary Order of Forfeiture against the Defendant's interest in the Defendant Property.

7. On July 19, 2005, July 26, 2005 and August 2, 2005, a Notice of Order of Forfeiture was published in the Boston Herald newspaper pursuant to 21 U.S.C. §853(n). In addition, notice of the Preliminary Order of Forfeiture was served on the following people:

- a) George Montilla ID # 39647, Plymouth County Correctional Facility, 26 Long Pond Road, Plymouth, Massachusetts 02360 on July 15, 2005; and
- b) Ronald Ian Segal, Esquire, counsel for George Montilla, Segal & Judge, 23 Central Avenue, Suite 605, Lynn, Massachusetts 01901 on July 18, 2005.

8. As of this date, no claims of interest in the Defendant Property have been filed with the Court or the U.S. Attorney and the time within which to do so has expired. Pursuant to the Notice of Order of Forfeiture and the provisions set forth in 21 U.S.C. §853(n)(2), the time to file a claim against the Defendant Property expired on September 2, 2005.

WHEREFORE, the United States respectfully moves that this Court enter a Final Order of Forfeiture against the Defendant Property in the form submitted herewith.

A proposed Order is submitted herewith for the convenience of the Court.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney,

/s/ JENNIFER H. ZACKS
CYNTHIA W. LIE
JENNIFER H. ZACKS
Assistant U.S. Attorneys
United States Courthouse
Suite 9200
1 Courthouse Way
Boston, MA 02210
(617) 748-3100

Date: September 6, 2005

CERTIFICATE OF SERVICE

I certify that I have served a true copy of the foregoing upon Ronald Ian Segal, Esquire, Segal & Judge, 23 Central Avenue, Suite 605, Lynn, MA 01901, as counsel for Defendant George Montilla, by first class mail.

/s/ JENNIFER H. ZACKS
JENNIFER H. ZACKS
Assistant U.S. Attorney

Date: September 6, 2005